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December 17, 2009

VIA HAND DELIVERY AND US MAIL

DOCKET
07-AFC-6
DATE DEC 17 2009
RECD. DEC 17 2009

Mike Monasmith, Siting Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: Carlsbad Energy Center Project (07-AFC-6)
Correspondence to San Diego Regional Water Quality Control Board

Dear Mr. Monasmith:

On behalf of Carlsbad Energy Center LLC, please find enclosed for docketing correspondence to Ms. Michelle Mata of the San Diego Regional Water Quality Control Board related to the Report of Waste Discharge for the Carlsbad Energy Center Project.

Should you have any questions regarding this submittal, please do not hesitate to call me.

Respectfully submitted,

Melissa A. Foster

MAF:kjh
Enclosures
cc: See Enclosed Proof of Service

Carlsbad Energy Center LLC
1817 Aston Avenue, Suite 104
Carlsbad, CA 92008
Phone: 760.710.2156
Fax: 760.710.2158

December 14, 2009

Ms. Michelle Mata
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

Subject: Response to San Diego RWQCB Comments
Report of Waste Discharge - Carlsbad Energy Center Project's
Proposed Ocean Water Purification System
at Encina Power Station

Dear Ms. Mata:

The following information regarding the Carlsbad Energy Center Project's (CECP) proposed ocean water purification system is provided in response to your emailed questions and as follow up to our September 22, 2009 site meeting at Encina Power Station (EPS). To assist in the review of the responses below, it is important to point out that EPS has an existing National Pollutant Discharge Elimination System (NPDES) permit for the intake and discharge of sea water through the existing EPS once-through-cooling system. EPS will continue to maintain the NPDES permit and the associated structure as long as the EPS necessitates circulating water for maintaining current operations, including cooling water for operable steam turbine units and service water for maintaining the cooling system, and continued discharge of EPS' low volume wastes. The CECP includes the added benefit of retiring a portion of the current permitted intake capacity of 867 million gallons per day (MGD), reducing the intake by about 225 MGD. As noted during our meeting, irrespective of whether either of the steam turbines is operating for energy production – in this case Units 4 and 5 after the retirement of Units 1, 2 and 3 - circulation of service water via a combination of service water pumps for maintenance and permit compliance will continue.

Attached is a site plan depicting the current intake and discharge system and identification of the associated cooling water system and service water system pumps. This existing system circulates the intake water and low volume plant waste streams through the EPS discharge facility. Based on the design and operational requirements for EPS' current operations, irrespective of whether any of the five existing EPS generating units are producing electricity or are capable of producing electricity, at a minimum at

least 3,000 gallons per minute (gpm) of sea water represented by the smallest service water pump will be circulating at any give time. CECP will draw from the existing EPS discharge wastewater stream for the CECP ocean water purification system, and this system is designed to operate on a minimum flow of 3,000 gpm. EPS will maintain the ability to circulate service water as long as the plant has an active NPDES permit and the intake structure, circulating water system, and low volume waste discharge system have not been decommissioned. Until such time in the future that the existing EPS is completely decommissioned and the intake, circulation system, and low volume waste discharge facilities are removed, minimum service water flow for plant maintenance and NPDES compliance will remain available.

Additional information regarding the NPDES permit for the EPS intake and discharge system is included in our September 22, 2009 letter to Brian Kelley of your office regarding the requirements of Water Code section 13142.5(b) as they relate to the ongoing operation of EPS and the inapplicability of Water Code section 13142.5(b) to CECP (a copy of this letter is attached hereto).

The specific responses to the questions posed in your e-mail are as follows:

1) **Question**: "*The EPS is owned and operated by Cabrillo Power. The CECP will be owned and operated by Carlsbad Energy Center LLC. Both Carlsbad Energy Center LLC and Cabrillo Power I LLC are indirect wholly owned subsidiaries of NRG Energy LLC. The permitting action may entail separate NPDES permits – one for CECP (Units 6 & 7) and one for Cabrillo Power (Units 4 & 5). Please describe any existing or anticipated operating agreements between: (1) Cabrillo Power, (2) Carlsbad Energy Center LLC and (3) Poseidon with regard to the operation of the Agua Hedionda Lagoon intake structure.*"

Response: There is no need at the present time for an operating agreement between Cabrillo Power I LLC (Cabrillo Power) and Carlsbad Energy Center LLC (CECP) related to operation of the Agua Hedionda Lagoon intake structure as, for the foreseeable future, Units 4 and 5 at the EPS will continue to operate and the source water for CECP's ocean water purification system will be from the EPS once-through cooling system discharge channel. If, at some point in the future, EPS Units 4 and 5 are to be retired, CECP will initiate discussions with the RWQCB regarding the appropriate requirements for CECP to amend the anticipated NPDES permit the RWQCB will issue to CECP based on the CECP Report of Waste Discharge (ROWD) and NPDES permit application on file with the RWQCB. At such a time, CECP will also initiate discussions with Cabrillo Power if needed.

Regarding an agreement between Cabrillo Power and Poseidon Resources (Poseidon), a land lease and easement agreement currently exists between Cabrillo Power (as Grantor) and Poseidon (as Grantee) for certain leasehold and easement areas related to the construction and operation of the Carlsbad Desalination Project. Under this lease and

easement agreement, this is no requirement for Cabrillo Power to operate the EPS once-through cooling system solely to provide source water to Poseidon.

2) The following set of questions and responses provide information based on the RWQCB's staff request for CECP to confirm that the following description of the source water flow from intake to discharge, including dilution water, accurately represents the proposed project, and is representative of all possible operating conditions now and in the future for the CECP.

Question: *"We understand that CECP is proposing to withdraw the 'source water' (i.e., the water that you plan to demineralize and use for in-plant purposes) from the downstream discharge channel of Encina Power Station (EPS) Units 4 & 5 (assuming that EPS Units 1 – 3 will be decommissioned and replaced with Units 6 & 7). At this point we understand the source water has been: (1) Pumped from Agua Hedionda Lagoon, using the existing intake structure and pumps; (2) Passed through the intake portion of the channel; (3) Passed through the heat exchangers for EPS Units 4 & 5; and (4) Discharged into the downstream channel of EPS Units 4 & 5 for ultimate discharge to the ocean."*

Response: The RWQCB's description above is essentially correct. When Unit 4 and/or Unit 5 are operating and generating power, ocean water is moved to the discharge channel by the Unit 4 and 5 circulating pumps. In addition, based on the design and service requirements for Units 4 and 5, when either Unit 4 or 5 are not generating power, or if neither unit is generating power, ocean water is still circulated by any one or more of the existing Units 1 – 5 service water pumps, all of which have sufficient capacity to support the operation of the CECP ocean water purification system, to maintain the reliable operation of the intake cooling water system.

Question: *"If the above description of the source water flow from intake to discharge is not representative, please provide an alternative description that covers all of the possible current and future flow scenarios."*

Response: The description above is representative for the foreseeable future in which EPS Units 4 and 5 continue to operate. With regard to operations at some point in the future when EPS Units 4 and 5 are retired, see the response to Question 1 above.

Question: *"Please provide a complete diagram(s) of the discharge channel that clearly shows the location of the intake in relation to Units 1 – 5 and the Carlsbad Desalination Project's proposed intake location under all current and future operational scenarios."*

Response: Attached Diagram 1009715-M-SK-003 shows the general relationships between CECP, EPS Units 4 and 5 that will remain in service, and EPS Units 1 – 3 that will be removed from service after the commissioning of CECP Units 6 and 7, and the approximate locations of the Carlsbad Desalination Project connections.

Question: *"Please provide a diagram that shows precisely where the dilution water intake occurs under all operational circumstances."*

Response: Attached Diagram 1009715-M-SK-003 shows the existing unit's service and circulating water pump channel discharge flows.

Question: *"The Report of Waste Discharge (ROWD) indicates 'The intake for the ocean water purification system will be from the Encina Power Station's once-through cooling water discharge channel...' Does the term "ocean water purification system" include the dilution water?"*

Response: Yes. As discussed in the ROWD submitted by CECP, the ocean water purification system requires additional dilution water sources. The required CECP ocean water purification system dilution water will be provided by either the volume of ocean water discharged by the circulating pumps of EPS Units 4 and/or 5 when these units are generating power, or by one of the EPS 3,000 gpm service water pumps for Units 1 – 5 that are required to operate based on the design requirements for Units 4 and 5 when these units are not generating power.

3) **Question:** *"When we last spoke, you mentioned the CECP could be run off the flow from the service pumps. We would like more details on the service pump configuration. Describe in detail what portion of the intake channel is used to provide flows to service pumps (i.e., where is each service pump located?)."*

Response: Attached Diagram 1009715-M-SK-003 identifies the general locations of existing service water pumps and includes a table with the capacity of each pump.

Question: *"Would the service pump flow include dilution water?"*

Response: Yes, see the response below for additional information.

Question: *"Under what circumstances would the CECP be run off the flow from the service pumps?"*

Response: In general and as discussed above in Response 2, based on the design and operations procedures for EPS, at least one of the EPS service water pumps will be operating when EPS Units 4 and 5 are not generating power and thus, their circulating pumps (i.e., large capacity cooling pumps) are not in operation. The smallest service water pumps are rated at 3,000 gpm (or 4.32 MGD) and either one is ample to provide the purified ocean water for the project. One of these pumps operating represents the worse case dilution scenario discussed in our ROWD. The largest service water pumps are rated at approximately 9,000 gpm (or 13.10 MGD) as shown on the attached diagram.

When either EPS Unit 4 and/or 5 are generating power, the flow for CECP would be met by either of the circulating pumps at EPS.

Question: *"Under these circumstances, would the flow from the service pumps serve all of the CECP's source water needs for both processing and discharge dilution?"*

Response: Yes. The smallest of the service water pumps for EPS Units 1 – 5 are capable of moving up to 3,000 gpm. The calculation of the most conservative dilution rate for the CECP ocean water purification system discharge in the ROWD is based on the scenario of water from only one of the 3,000 gpm service water pumps for Units 1 – 5. However, most of the time, dilution will be greater because more than one service water pump will be in operation, or dilution will be much greater because Units 4 & 5 will be operating (generating much larger flows).

4) **Question:** *"Would the intake structure ever need to be operated for the sole purpose of running the CECP?"*

Response: No. See Responses 2 and 3 above.

Question: *"Describe any circumstances, now or any time in the future, under which the intake structure would need to be operated for the sole purpose of running the CECP."*

Response: As discussed above in Responses 2 and 3, at least one EPS service water pump will be operating to support normal operation of the EPS intake and discharge system and the flow from the EPS service water pump is adequate to support operation of the CECP ocean water purification system.

Regarding possible future conditions, as discussed in Response 1 above, if at some point in the future EPS Units 4 and 5 are to be retired, CECP will initiate discussions with the RWQCB regarding the appropriate requirements for CECP to amend the anticipated NPDES permit the RWQCB will issue to CECP based on the CECP ROWD and NPDES permit application on file with the RWQCB.

Question: *"Under this scenario, would CECP need to draw Agua Hedionda lagoon source water solely for the benefit of CECP?"*

Response: No. See Responses 2 and 3 above.

Regarding possible future conditions, as discussed in Response 1 above, if at some point in the future EPS Units 4 and 5 are to be retired, CECP will initiate discussions with the RWQCB regarding the appropriate requirements for CECP to amend the anticipated NPDES permit the RWQCB will issue to CECP based on the CECP ROWD and NPDES permit application on file with the RWQCB.

5) **Question:** *"It is our understanding that EPS Units 1 – 3 will be decommissioned once the CECP is up and running. Will the pumps for EPS Units 1 – 3 also be decommissioned?"*

Response: Some or all the service water pumps from Units 1 – 3 will be left in service after decommissioning of these units to support ongoing operations of EPS.

Question: *"Is Encina Power Station (Cabrillo) obligated to provide source water for some or all of CECP's needs even if Units 4 & 5 were temporarily or permanently shut down and without regard to whether the Poseidon Desalination Facility in fact is constructed and commences operations on the site?"*

Response: See Response 1 above.

6) **Question:** *"My supervisor Brian Kelley met with CECP staff on 3/18/09 and asked that CECP look into using Encina Wastewater Authority's secondary treated wastewater (as opposed to the City of Carlsbad's Title 22 quality recycled water) as an alternative means of obtaining source water for the CECP RO units. Under this scenario, the reject water could be returned back to the Encina Wastewater Authority ocean outfall. The use of Encina Wastewater Authority's secondary treated wastewater could also address the City of Carlsbad's reported shortage of available Title 22 recycled water from the City's recycled water plant. As Brian indicated, this would also be beneficial to all agencies since it would (1) provide the needed source water for the CECP, (2) provide excess capacity through the Encina Ocean Outfall, (3) eliminate the impacts from impingement and entrainment, and (4) promote the use of wastewater that would otherwise be discharged to the ocean with no further beneficial use. Encina Wastewater Authority's lower salinity source water theoretically should require less energy and processing for demineralization with a less concentrated brine effluent. This also could eliminate the need for use of dilution water."*

Response: It is our understanding that the City of Carlsbad controls a majority of the Encina Wastewater Authority's secondary treated water available for use to generate California Title 22 (Title 22) reclaimed water. The City is on the record that the Encina Water Pollution Control Facility does not have the capacity to provide CECP with secondary treated wastewater or to generate additional Title 22 water from secondary treated wastewater.

If the Encina Water Pollution Control Facility has the capacity to generate additional Title 22 reclaimed water from secondary treated water that is currently discharged to the ocean, it is CECP's opinion that it would be better for the City to provide the necessary treatment at the Encina Facility to generate additional Title 22 reclaimed water, rather than have CECP treat secondary treated wastewater at CECP. The increase in the

capacity to generated Title 22 reclaimed water at the Encina facility would enhance the Authority's and the City's overall Title 22 reclaimed water infrastructure by being tied into the City's overall reclaimed water pipeline system. This would allow for use of Title 22 reclaimed water by other users when CECP is not operating. Furthermore, for CECP to treat secondary treated wastewater onsite there would be an increase in land use requirements and permitting due to the treatment of the secondary quality wastewater at the CECP site. Providing these services at the Encina Facility would be a small incremental change to processes that are already in place.

On behalf of the Carlsbad Energy Center LLC, we appreciate the opportunity to provide the above information to the RWQCB. We look forward to the working with you and your management on the completion of the NPDES permit for the proposed CECP ocean water purification system.

If you have questions regarding the above responses or the CECP, please do not hesitate to contact me at (760) 710-2156 (office) or (760) 707-6833 (cell).

Sincerely,
Carlsbad Energy Center LLC

George L. Piantka, PE
Director, Environmental Business
NRG, West Region

cc: Brian Kelley, SDRWQCB
Mike Monasmith, CEC
CEC Dockets 07-AFC-06

Attachments:

NRG's September 22, 2009 Letter to San Diego Regional Water Quality Board
Encina Power Plant Cooling Water Discharge Channel Flow

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September 22, 2009

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VIA EMAIL AND U.S. MAIL

Brian D. Kelley
Senior Engineer
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Re: Carlsbad Energy Center Project

Dear Mr. Kelley:

On August 15, 2008, CECP submitted a Report of Waste Discharge ("ROWD") to the Regional Board, seeking an NPDES permit for the discharge of wastewater from the CECP related to the facility's proposed ocean water purification system ("OWPS"). The OWPS was outlined in the CECP Project Enhancements and Refinements ("PEAR") document docketed with the California Energy Commission ("CEC") on July 25, 2008, a copy of which was provided to the Regional Board. On November 3, 2008, the Regional Board deemed the ROWD complete. On February 13, 2009, Michelle Mata, a Regional Board Water Resource Control Engineer, inquired whether CECP meets the requirements specified in Water Code section 13142.5(b). The CECP Application for Certification ("AFC"), PEAR, and ROWD do not specifically address the applicability of section 13142.5(b) because, as discussed in more detail below, section 13142.5(b) is not applicable to CECP.

Based on the language of section 13142.5(b)[1], the section is applicable if CECP is a "new or expanded" use and only if seawater is used for cooling, heating, or industrial processing.[2] The

[1] Section 13142.5(b) provides the following: "For each new or expanded coastal powerplant or other industrial installation using seawater for cooling, heating, or industrial processing, the best available site, design, technology, and mitigation measures feasible shall be used to minimize the intake and mortality of all forms of marine life." (Cal. Water Code § 13142.5(b).)

[2] In *Voices of the Wetlands v. California State Water Resources Control Board* (Duke Energy Moss Landing LLC), 157 Cal.App.4th 1268, 1351 (2007), cert. granted, 180 P.3d 223 (Mar. 19, 2008), the court noted that "mitigation does not qualify as a 'technology' for purposes of section 316(b)" but that "California law makes mitigation a

(continued . . .)

OWPS is proposed as an alternative water source if reclaimed water is not available from the City of Carlsbad for operation of CECP. Further, the CECP's OWPS does not involve a new or expanded use of seawater. In fact, just the opposite is true. The existing NPDES permit for the Encina Power Station ("EPS") contemplates the installation and operation of a desalination plant for up to 1.44 mgd of seawater.[3]

The PEAR and ROWD provided the CEC and the Regional Board, respectively, with details on the proposed water supply and point of wastewater discharge for the CECP OWPS. Specifically, as noted in the PEAR:

> Maximum daily intake of ocean water for purification purposes would range between 604,500 gallons per day (gpd) without power augmentation (PAG) and 1.22 million gallons per day (mgd) with PAG operating 8 hours per day, plus additional ocean water for mixing at the outfall for a maximum of 4.32 mgd.

(PEAR § 2.3.2, at p. 2-3; *see also* Revised Figures 2.2-6A and 2.2-6B (noting that the water supply source is the "existing unit's ocean discharge – Units 4 & 5").) Attachment 1 to the ROWD, Section IV: Plant and Operations Description provides a detailed discussion of the intake source water coming from the EPS discharge channel. The Regional Board's November 3, 2008 correspondence deeming the ROWD complete, however, erroneously notes that "intake sea water would be extracted from the existing Encina Power Station intake structure and the waste discharge would be to the existing power plant effluent channel into the Pacific Ocean." (Letter from Regional Board to Tim Hemig regarding NPDES Application for the CECP Waste Discharge to the Pacific Ocean at 1 (Nov. 3, 2008) (emphasis added).) As noted above, this statement is not correct.

(. . . continued)
legitimate factor in certain circumstances. For example, a provision of state water law contained in the Porter-Cologne Act, which governs 'each new or expanded coastal powerplant,' expressly recognizes the availability of 'mitigation measures' as one way 'to minimize the intake and mortality of all forms of marine life.'" (Wat. Code § 13142.5(b).)." There is substantial room for flexibility in the mitigation measures allowed under the Water Code.

[3] The EPS NDPES permit regulates the use of seawater for once-through cooling and discharge of the same, but also alludes to the permissible use of a seawater reverse osmosis ("R/O") process. (Permit at F-9.) The EPS NPDES Permit (Permit at C-1) shows a 1.44 mgd supplemental ocean water supply option, noting a net of approximately 576,000 gpd in supplemental supply for EPS from the use of a seawater R/O process.

CECP's proposed alternative water source will require less than 1.44 mgd (no more than 1.22 mgd), which is a decrease in water use. In addition, the water source for CECP's OWPS is the EPS discharge stream via the EPS outfall, not seawater through an intake. The fact that CECP will go online at the time when EPS Units 1, 2, and 3 will be retired, resulting in a significant decrease in use of seawater, coupled with the need for only 1.22 mgd for an alternative water source already contemplated by the existing EPS NPDES permit alone demonstrates that section 13142.5(b) does not apply to CECP. Moreover, CECP does not involve once-through cooling and would never require the use of as much ocean water as the seawater R/O (1.44 mgd) considered in the existing EPS NPDES permit. The allowance of an additional 1.44 mgd of seawater for EPS demonstrates that the Regional Board already considered the use of such additional seawater and the impacts from doing so.

Notwithstanding the foregoing, CECP is a dry-cooled facility. CECP does not propose to use seawater for cooling purposes as contemplated by Water Code section 13142.5(b), nor does CECP propose to "draw in" seawater, to construct a new intake structure, or to increase capacity in an existing intake structure. Instead, the wastewater discharge stream from EPS' permitted outfall is proposed as the water supply source for CECP. Once Units 4 and 5 are retired at some future unknown date (the retirement of which is not part of CECP), there will be numerous options for minimizing losses due to entrainment if the flow is reduced to only the 4.32 mgd for the CECP. A large portion of that 4.32 mgd is merely passing through a pump and being used for dilution. Thus, the entrainment survival for organisms would be expected to be high and could be further increased by modifying pump design, if necessary. This information, coupled with the fact that section 13142.5(b) expressly recognizes the availability of "mitigation measures" as one way 'to minimize the intake and mortality of all forms of marine life" (*Voices of the Wetlands*, 157 Cal.App.4th at 1351) evidences further support for our position that the Regional Board should delay any decisions on CECP water use in the absence of Units 4 and 5.

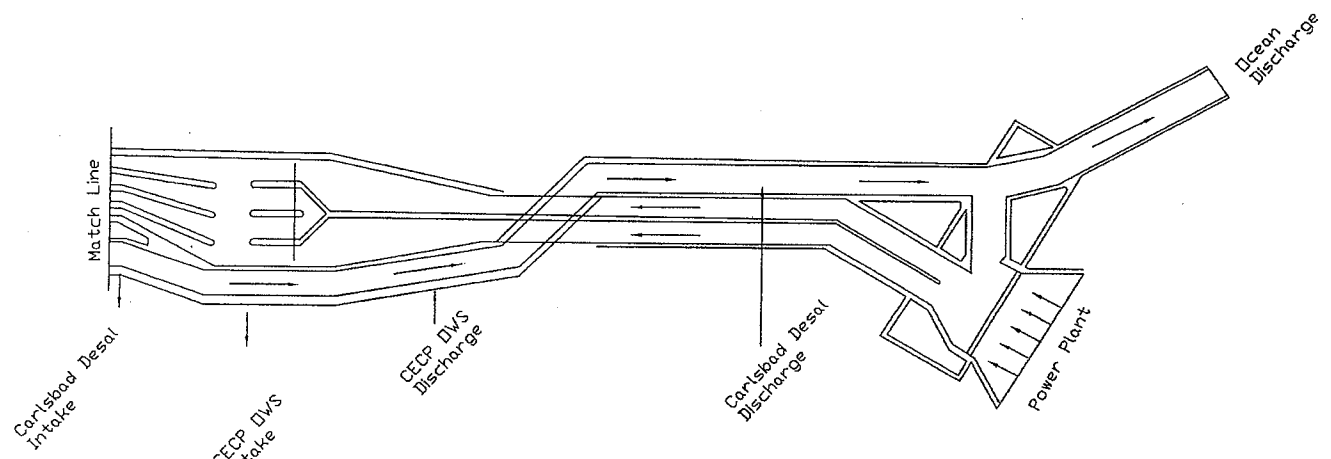
Based on the foregoing, Water Code section 13142.5(b) is not applicable to CECP.

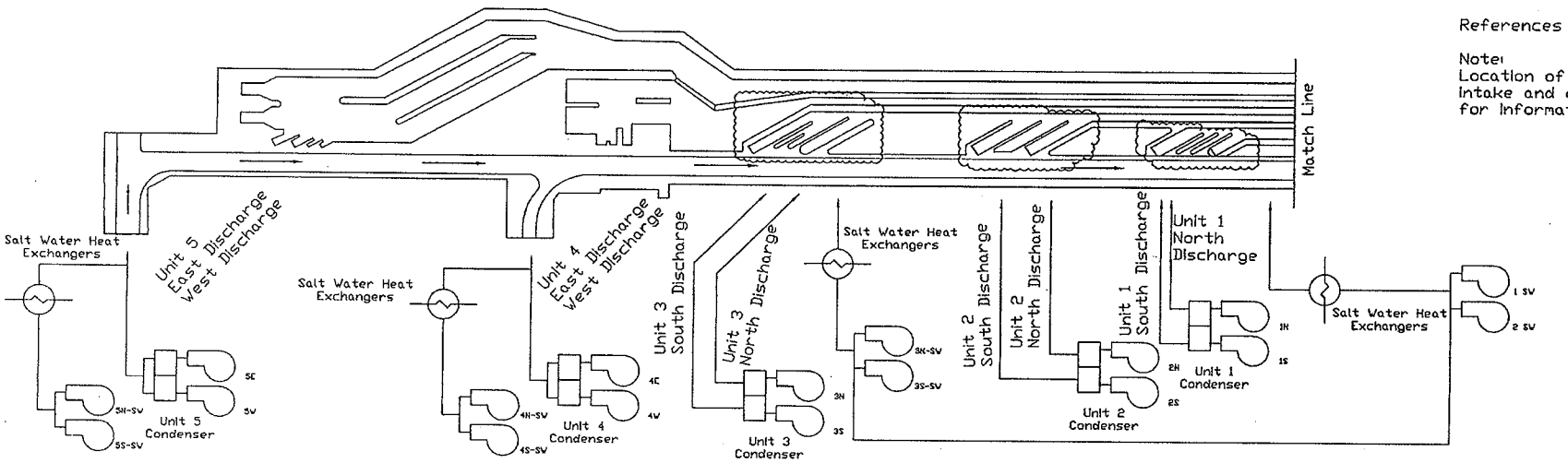
Very truly yours,

for John A. McKinsey

cc: Michelle Mata, Regional Board

NRG WEST CARLSBAD ENERGY CENTER PROJECT
Ocean Water System
Encina Power Plant Cooling Water Discharge Channel Flow





Circulating (Condenser) Water Pumps

	Pump Capacity mgd
Unit 1N	34.56
Unit 1S	34.56
Unit 2N	34.56
Unit 2S	34.56
Unit 3N	34.56
Unit 3S	34.56
Unit 4E	144
Unit 4W	144
Unit 5E	149.76
Unit 5W	149.76
Total Flow	794.88

Salt Water Service Water Cooling Pumps

Unit 1-SW	4.32
Unit 2-SW	4.32
Unit 3N-SW	4.32
Unit 3S-SW	4.32
Unit 4N-SW	9.36
Unit 4S-SW	9.36
Unit 5N-SW	13.10
Unit 5S-SW	13.10
Total SW Flow	62.20
Total Flow	857.08

References

Note:
Location of Carlsbad Desal and CECPOWS intake and discharge points are shown for informational purposes only

1009715-M-SK-003 Rev E
28 October 2009
Drawn by A. Schaaf

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
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1516 NINTH STREET, SACRAMENTO, CA 95814
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APPLICATION FOR CERTIFICATION FOR THE CARLSBAD ENERGY CENTER PROJECT	Docket No. 07-AFC-6 PROOF OF SERVICE (Revised 12/8/2009)

Carlsbad Energy Center LLC's Correspondence to San Diego Regional Water Quality Control Board

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DECLARATION OF SERVICE

I, Judith Warmuth, declare that on December 17, 2009, I deposited copies of the aforementioned document in the United States mail at 500 Capitol Mall, Suite 1600, Sacramento, California 95814, with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

Transmission via electronic mail was consistent with the requirements of California Code of Regulations, Title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

I declare under penalty of perjury that the foregoing is true and correct.

Judith Warmuth